

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/762,466  
Applicants : Frank Duane LORTSCHER JR.  
Filed : January 23, 2004  
TC/A.U. : 3693  
Examiner : Perry, Linda C.

Docket No. : 3029-101  
Customer No. : 6449  
Confirmation No. : 5460

Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

**RESPONSE TO RESTRICTION/ELECTION REQUIREMENT**

In response to an Office Action Restriction Requirement dated June 26, 2008, Applicants elects to prosecute Group IV, Claims 44-54, drawn to a method for generating a recommendation based on relevant transaction data, classified in class 705, subclass 36. This election is made with traverse.

Groups III and IV were restricted as subcombinations usable together in a single combination. For this restriction to be proper, the Office must show that Groups III and IV do not overlap in scope, Groups III and IV are not obvious variants, and either Group III or Group IV is separately usable. Applicant traverses, and notes that the Office has merely stated that "subcombination III has separate utility as [a, sic] method for generating an investment recommendation."

Group III includes claims 38-43. Claim 38, from which claims 39-43 depend recites "[a] method for generating an investment recommendation for a proposed transaction." Group IV includes claims 44-54. Claim 44, from which claims 45-54 depend, recites "generating a recommendation relating to said proposed transaction based on said transaction data." The Office has not explained why the word "investment" in claim 38 provides a separate utility from claim 44. To the contrary, claim 44 specifies that the recommendation is based on, *inter alia*, an object price and a size of the transaction. Therefore, use of the word "investment" in claim 38 cannot, in and of itself, serve as a basis for restriction. In fact, the method of claim 44 could result in the generation of an "investment" recommendation. Thus, the restriction requirement is improper, and Group III does not have a separate utility from Group IV. Accordingly, Applicant requests that the restriction requirement be withdrawn and Group III be rejoined.

In the event that this paper is not timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by

telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,

Date: July 25, 2008

By: 

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